

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CODY RICHARD TAYLOR,

Plaintiff,

v.

JEFF LYNCH, et al.,

Defendants.

No. 2:21-cv-2413 KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, in an action brought under 42 U.S.C. § 1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances

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1 common to most prisoners, such as lack of legal education and limited law library access, do not
2 establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

3 The undersigned is sympathetic to plaintiff's claim that he suffers nerve damage to his
4 right hand which requires him to wear a wrist brace most of the time that makes it difficult to
5 write or do legal work. However, plaintiff's request for counsel was brought with his complaint,
6 and it is too early for the court to determine whether plaintiff is likely to succeed on the merits.
7 Moreover, plaintiff's filings to date have been very legible and well written.

8 Having considered the factors under Palmer, the court finds that plaintiff failed to meet his
9 burden of demonstrating exceptional circumstances warranting the appointment of counsel at this
10 time.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
12 counsel (ECF No. 3) is denied without prejudice.

13 Dated: February 4, 2022

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15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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